



STREET IMPROVEMENTS BY SPECIAL ASSESSMENT

State law authorizes cities to make improvements to streets or highways within their limits, and to provide for payment of the improvements by assessing abutting property owners. V.T.C.S. art 1105b § 3. A city can elect to pay the entire cost of such improvements or assess up to 100% of the cost of curbs, gutters and sidewalks and 90% of the remaining cost of the street improvement against the adjoining property owners. § 4. A city electing to assess abutting property owners, may provide the "time, terms and conditions of payment and defaults" and receive interest on the amount assessed not exceeding 8% per year. § 6.

Paving assessment programs are initiated either by petition, e.g., property owners in a particular area petition the City for street improvements (paving, curb or gutter work), or by the City directly when a particular street is designated a "problem street" by the Public Works Department, e.g., streets with increased development and/or traffic, drainage or maintenance problems. A paving assessment program is undertaken only when there are funds available to meet the anticipated front end cost to the City of the improvements.

STEP 1--Resolution Authorizing Preparation of Plans and Specifications

Once funds become available, the Public Works Department initiates a paving assessment program by placing on the City Council's agenda an item relating to the proposed assessment, with the goal of obtaining from the Council, a resolution authorizing plans and specifications for the project to be prepared. A copy of the form for this resolution is included in the appendix, and denoted "P1" in the lower lefthand corner of the document.

STEP 2--Resolution Approving Plans, Ordering Improvements, Providing for Assessment, and Directing the Solicitation of Bids

Once the Council gives the go-ahead, the Engineering Division prepares the actual plans for the paving program. When completed, the Public Works Department obtains a City Council resolution approving the plans prepared by the Engineering Division, ordering the improvements to be made, providing for assessment of the cost of the improvements against the abutting landowners, and directing the City Secretary to advertise for bids. A document called an Exhibit "A" containing a legal description of the properties abutting the streets where the improvements have been proposed, is included with the specifications. Steps 1 & 2 can be combined in one presentation before the Council. A blank copy of the form for an Exhibit "A" and a copy of the form for the resolution approving the plans are

included in the appendix, and denoted "P2" and "P3" respectively in the lower lefthand corner of the first page of the document.

STEP 3--Newspaper Solicitation of Bids

Step Three involves the solicitation of bids to perform the street improvement(s). The contract specifications are drawn up by the Public Works Department and given to Purchasing which prepares and submits the solicitation. If the cost of the proposed improvements exceeds five thousand dollars (\$5,000.00), the City must submit the proposed contract to competitive bidding. If bids are required, notice of the time and place when and where such contract(s) shall be let must be published once a week for two consecutive weeks, with the date of the first publication at least fourteen (14) days prior to the date set for letting the contract. A example of a newspaper advertisement is included in the appendix, and denoted "P4" in the lower lefthand corner of the first page of the document.

STEP 4--Resolution Awarding Contract and Calling a Public Hearing

After the deadline for receiving bids has passed, the Director of Public Works and his staff review the bids. The Director places the assessment program on the City Council's agenda. The Director makes a recommendation to the Council on which bid to accept. The Council awards the contract to one of the bidders, contingent upon the levying of a sufficient assessment. The Council at this time calls a public hearing to consider an ordinance providing for the assessment against the abutting property owners. A copy of the form for this resolution is included in the appendix, and denoted "P5" in the lower lefthand corner of the first page of the document.

STEP 5--Filing of Notice of Paving Lien

Prior to the public hearing, the Legal Department prepares a "Notice of Paving Lien Assessment." The City Secretary files the "Notice" in the deed records of Taylor County Courthouse. The Exhibit "A" prepared by Engineering is attached to the "Notice." The "Notice" alerts prospective buyers or other parties dealing with the property in question that the City of Abilene has ordered improvements to a street abutting the property in question, and that an assessment against that property for a portion of the cost of the improvements has been authorized (but not finalized). A copy of the "Notice" is included in the appendix, and denoted "P6" in the lower lefthand corner of the first page of the document.

STEP 6--Notice of Public Hearing in Local Paper

The sixth step is to have published a "Notice of Public Hearing" in a local paper for three consecutive weeks. The "Notice" is prepared and submitted for publication by the City Secretary. By law, the first such notice must appear at least twenty-one (21) days before the date of the public hearing. A copy of this notice is included in the appendix, and denoted "P7" in the lower lefthand corner of the first page of the document.

STEP 7--Public Hearing Letters to Property Owners and Railroads Subject to Assessment

The Public Works Department prepares and sends out letters to individual property owners subject to the special assessment--notifying them of the public hearing. These letters are sent out at least fourteen (14) days prior to the public hearing. If a railroad or streetrail crosses the street to be improved and is subject to the assessment, a certified copy of the notice of the public hearing is mailed to the affected railroad. The notice provided to railroads must contain the same general information shown below as well as stating the amount proposed to be assessed against the railroad. A copy of the form letter is included in the appendix, and denoted "P8" in the lower lefthand corner of the first page of the document. A notice letter to an individual property owners is sufficient if:

- it is sent by U.S. Mail, postage prepaid;
- mailed at least fourteen days prior to the public hearing;
- it contains written notice of the public hearing (time, date & location);
- addressed to owners of respective properties abutting streets or portions thereof to be improved, names and addresses as shown on current rendered tax rolls of the City;
- it contains a description in general terms of the nature of the improvements proposed;
- it states street or portions thereof to be improved;
- it gives the estimated amount or amounts per front foot proposed to be assessed against the abutting property owners; and
- it gives the estimated total cost of the improvements of each such highway or portion thereof.

The written notice to be mailed may consist of a copy of the published notice.

STEP 8--The Public Hearing

Public Works places the public hearing to consider the assessment on the City Council's agenda. The Public Works Director opens the presentation by describing the streets involved and why they need to be paved. The City Attorney then questions two expert witnesses. Through their testimony, the City Attorney establishes their expert qualifications and that each of the properties to be assessed will be enhanced in value by an amount at least equal to the assessment.

The first expert to testify is usually the City Engineer, followed by a private (non-city employee) real estate appraiser. A copy of the form questions used by the City Attorney is attached to this memo following the Paving Assessment Calendar. After the City Attorney questions each expert, the Council has an opportunity to question each expert. The Mayor then opens the public hearing. The hearing is held on a street-by-street basis with the streets petitioned by the public going first. After the public has had an opportunity to speak on the proposed ordinance, the Council votes on the assessment ordinance. They have three options: (1) the ordinance and assessment roll can be adopted as the staff recommends (i.e., all streets & properties at the proposed rate; (2) the ordinance and assessment roll can be amended by deleting streets, specific properties or lowering the rate on any particular street or property; or (3) they can not approve any street or property. At this point in time, an assessment roll called an Exhibit "B" has been prepared that is similar to but more specific than the Exhibit "A". An Exhibit "B" contains a legal description of each lot for each street, the owners thereof, the amount of paving and curb & guttering required in linear feet, the type of frontage (front, side lot, commercial or unplatted), the cost per unit for of each type of improvement and the total recommended cost to be assessed against the owner. A copy of an Exhibit "B" is included in the appendix and denoted "P9" A copy of an ordinance closing the public hearing, ordering the improvements and levying the assessments is included in the appendix and denoted "P10" in the lower lefthand corner of the first page.

STEP 9--Notice of Passage of Ordinance

After the passage of the assessment ordinance, the City Secretary has the ordinance published in the official newspaper of the City at least one time within twenty days of the final passage of the ordinance by the Council. If the assessment as levied in the ordinance differs from the "Notice of Assessment" previously filed in the Taylor County deed records, a "Notice of Non-Assessment of Paving Liens," prepared by the Legal Department, and signed by the Mayor is filed in the Taylor County deed records to remove any cloud on the title of property not

affected by the levying ordinance. A copy of the Notice of Passage of Ordinance and a copy of the Notice of Non-Assessment are included in the Appendix and denoted "P11" and "P12" respectfully in the lower lefthand corner.